

## **Council Minutes – May 1, 2007**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, May 1, 2007. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Alcalá, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9. Mayor Bunten presided -1.

AFTER THE MEETING was called to order, City Council Chaplin Lee Martin, gave the invocation.

THE PLEDGE OF ALLEGIANCE was recited by those present in the chamber.

A PRESENTATION on the City of Topeka Planning Department was presented by David Thurbon, Planning Director.

Councilmember Blackburn moved to suspend the Council Rules to add a resolution concerning the preparation of the 2008 Operating Budget to the agenda. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

Councilmember Blackburn moved to reinstate the Council Rules. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

Councilmember Preisner requested that item 4F, a Communication authorizing a Workers' Compensation Settlement Claim for Lisa Pinkley be pulled from the consent agenda for separate discussion.

Mayor Bunten noted that the resolution would be placed under New Business, as item 7F.

Norton N. Bonaparte, Jr., City Manager requested that item 4C, Minutes of the regular meeting of April 24, 2007 be withdrawn from the agenda because they were not yet complete. He noted that they would be placed on next week's agenda for approval.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 7941 introduced by Councilmember Deborah Swank granting the Friends of the Mulvane Art Museum an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions, was presented.

RESOLUTION NO. 7942 introduced by Councilmember Jack Woelfel granting Full Gospel Lighthouse Church an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions, was presented

2007 Open After Mid-Night License Renewal applications bearing the approval of the Chief of Police and City Inspectors were presented for the following:

<u>Business</u>	<u>Address</u>
Bavarian Inn	712 SW 2 <sup>nd</sup> Street
Bennigans #1732	3251 S. Topeka Boulevard
Donnie's	124 SW 8 <sup>th</sup> Avenue
Frances O'Dooley's	1930 SW Westport Drive
The Goose One Sports Bar & Grill	3203 SW 10 <sup>th</sup> Street
Midwest Elks Lodge #1441	1316 SE Madison

2007 Cereal Malt Beverage License Renewal applications bearing the approval of the Chief of Police and City Inspectors were presented for the following:

<u>Business</u>	<u>Address</u>
Ambay L.L.C.	4601 SW Topeka Boulevard
Berkshire County Club	3720 SW 45 <sup>th</sup> Street
Casey's General Store	4441 SE California Avenue
Casey's General Store	600 SE Rice Road
Conoco Food Mart	2121 SW Wanamaker Road
CSC #46	3300 SW Gage Boulevard
Dillons #58	1400 Huntoon
Dillons #67	2010 SE 29 <sup>th</sup> Street
Dillons #64	5720 SW 21 <sup>st</sup> Street
Dillons #54	800 NW 25 <sup>th</sup> Street
Dillons #47	2815 W. 29 <sup>th</sup> Street
Dillons #28	300 SW 29 <sup>th</sup> Street
Downtown Amoco	600 SE Quincy
Food 4 Less	3110 SE 6 <sup>th</sup> Street
Food 4 Less	3000 N. Topeka Boulevard
The Goose Express	2901 SE Fremont
I-70 Amoco	1000 SW Wanamaker

KWIK Shop #789	746 NE Wabash
KWIK Shop #788	1414 SW 17 <sup>th</sup> Street
KWIK Shop #781	4500 S. Topeka Boulevard
KWIK Shop #757	2619 SW 21 <sup>st</sup> Street
KWIK Shop #743	5633 SW 21 <sup>st</sup> Street
KWIK Shop #740	2277 SW 10 <sup>th</sup> Street
KWIK Shop #729	1700 Topeka Boulevard
KWIK Shop #720	102 SW 37 <sup>th</sup> Street
KWIK Shop #705	1114 NW Topeka Boulevard
Larry's Shortstop	3834 S. Topeka Boulevard
Mike's IGA	2620 NE Sardou
Oakmart Amoco	2518 NE Seward
Phillips 66	2525 SW 29 <sup>th</sup> Street
Price Chopper	4015 SW 10 <sup>th</sup> Street
Price Chopper	5311 SW 22 <sup>nd</sup> Place
Price Chopper	2021 SE 29 <sup>th</sup> Street
Price Chopper	2210 N. Tyler
6 <sup>th</sup> Street Quick Stop & Smoke	1107 SW 6 <sup>th</sup> Avenue
Tammy's On The Go	3335 Gage Boulevard
29 <sup>th</sup> Street Quick Stop	3101 SW 29 <sup>th</sup> Street
Vaishnavi	2201 SW 6 <sup>th</sup> Avenue
Charles R. Wood Oil Co. Inc.	101 NE Highway 24

Councilmember Preisner moved to approve the remainder of the consent agenda. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

#### A NOTICE OF PUBLIC HEARING

Notice is hereby given that there will be a special meeting of the Councilmembers of the City of Topeka, Shawnee County, Kansas, held Tuesday, May 1, 2007, at 6:00 P.M. relating to the vacation of a sanitary sewer easement located about 270 feet west of SW Misty Harbor Drive on SW 47th Court, City of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 18864 introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a sanitary sewer easement located about 270 feet west of SW Misty Harbor Drive on SW 47th Court, City of Topeka, Shawnee County, Kansas placed on first reading April 24, 2007 was again presented. (V07E/6)

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Blackburn carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Sewer Improvement Project No. 86182-03, which provides for construction of service lines connecting residents to the City's sanitary sewer system and the elimination of private septic tanks, as more specifically described herein, all pursuant to Section 146-236 of the Code of the City of Topeka and K.S.A. 12-631 placed on first reading April 24, 2007 was again presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Preisner moved to adopt the ordinance. The motion was seconded by Councilmember Blackburn.

Councilmember Alcalá stated that he would not support the ordinance because a number of the septic tanks that are being required to be replaced are new, and were very costly to install. He also stated that implementation of the program would incur additional costs to the citizens of Topeka. He suggested that they defer the ordinance for one week to determine if the five-year deadline could be extended.

Councilmember Alcalá made a substitute motion to defer the ordinance for one week. The motion was seconded by Councilmember Ortiz.

Brenden Long, City Attorney stated that property owners have been given at least three notices in the past three years. He also stated that if they want to change the conditions of the ordinance then they should amend the original ordinance adopted in 1997 that mandates the five-year deadline.

Councilmember Blackburn questioned if an extension on the five-year deadline would place a strain on the City's relationship with the Kansas Department of Health and Environment (KDHE).

Bob Sample, Water Pollution Control Director stated that he is not sure how an extension of the deadline would effect the City's relationship with KDHE. He noted that the City was initially given Federal grant money to remain in compliance with KDHE.

Councilmember Kennedy asked if the City is offering financial assistance for those individuals in need.

Jim Langford, Budget and Finance Director stated that the ordinance would authorize the City to provide low-interest financing to those individuals who qualify.

Councilmember Preisner asked if the Federal grant money would have to be repaid if the City does not follow through with the program.

Bob Sample stated that he was not sure what the stipulations of the grant were.

Councilmember Haynes asked what the total cost is, per sewer line, to connect to the City sewer system.

Mike Teply, Acting Public Works Director stated that it costs approximately \$5,000 per sewer line. He explained that each person has the option to pay the fee in one lump sum, or assessed on their property taxes over a twenty-year time period.

Councilmember Alcalá asked what the legal ramifications would be if the City did not follow through with the program.

Brenden Long stated that he is not sure and would have to review the KDHE grant documents.

Councilmember Swank stated that she has spoken with several constituents who are very satisfied with the financial programs that are being offered by the City.

The City Manager noted that there are 50 individuals that are currently opposed to the program requirement.

The substitute motion to defer the ordinance for one week carried. Councilmembers Woelfel, Swank, Blackburn and Preisner voted “no.” (5-4-0)

A PROJECT BUDGET in the amount of \$165,000 and ORDINANCE NO. 18865 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 30264-00, which provides for improvements to existing Creative Play/Civitan Play shared play area to update conditions and to meet ADA standards, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading April 17, 2007 was again presented. The ordinance was deferred from the meeting of April 24, 2007.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Terry Bertels, Interim Parks and Recreation Director distributed a revised project budget. He explained that the project budget was reduced by \$16,005 by eliminating the cost of demolition, and reducing the cost of landscaping and projected interest.

Councilmember Preisner moved to approve the project budget and adopt the ordinance. The motion was seconded by Councilmember Kennedy.

Councilmember Blackburn made a substitute motion to reduce the project to \$148,995, approve the project budget and adopt the ordinance as amended. The motion seconded by Councilmember Kennedy carried. Councilmember Ortiz voted “no.” (8-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcala, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -8. Noes: Ortiz -1.

A PROJECT BUDGET in the amount of \$148,000 and AN ORDINANCE introduced by Councilmember John Alcalá, authorizing Improvement Project No. 14103-01, which provides for replacement of existing traffic signal and necessary sidewalk and ramp modifications at SE Fourth Street and SE Branner Street, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading April 17, 2007 was again presented. The project budget and ordinance was deferred from the meeting of April 24, 2007.

Councilmember Alcalá moved to approve the project budget and adopt the ordinance. The motion was seconded by Councilmember Ortiz.

John Moyer, President of the East Topeka North Neighborhood Improvement Association spoke in support of the ordinance. He stated that a traffic signal would ease the safety concerns of area residents, as well as, address the needs of area businesses.

Councilmember Blackburn asked if the City runs a risk of possible liability if the traffic signal is approved because it is not the safest option.

Linda Voss, City of Topeka Traffic Engineer stated that in her opinion stop signs are the safest option because the volume of traffic no longer warrants a traffic signal.

Councilmember Alcalá withdrew the motion to approve the project budget and adopt the ordinance. The second concurred.

Councilmember Alcalá moved to defer the project budget and ordinance for one week. The motion was seconded by Councilmember Ortiz.

Councilmember Ortiz inquired on the amount of traffic signals located throughout the city that are not warranted by volume of traffic.

Linda Voss stated that there are three traffic signals that no longer warrant the volume of traffic, and they are scheduled to be removed.

Councilmember Preisner made a substitute motion to approve the recommendation of staff to install two-way stop signs at the intersection of SE 4<sup>th</sup> and Branner Streets. The motion was seconded by Councilmember Blackburn.

Councilmember Alcalá stated that he would not support the substitute motion because he believes a traffic signal is necessary to eliminate the safety issues associated with the intersection.

Councilmember Ortiz stated that she would not support the substitute motion because the money has already been set aside for the project, and area citizens want a traffic signal.

The substitute motion to approve the recommendation of staff to install two-way stop signs at the intersection of SE 4<sup>th</sup> and Branner Streets carried. Councilmembers Alcalá, Ortiz and Haynes voted “no.” (6-3-0)

Norton N. Bonaparte, Jr., City Manager requested that item 6D, a resolution adopting the 2007-2008 Capital Improvement Budget be withdrawn from the agenda because it was no longer necessary.

A PETITION, PROJECT BUDGET in the amount of \$427,105 and RESOLUTION NO. 7943 introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and improvement district and authorizing as amended Street Improvement Project No. 60626 which provides for paving of SW 30<sup>th</sup> Terrace west from Wanamaker Road, as more specifically described herein and rescinding Resolution of Advisability and Authorization No. 7773 was presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Preisner moved to approve the petition, project budget and resolution.  
The motion seconded by Councilmember Kennedy carried unanimously. (9-0-0)

A COMMUNICATION from City Manager Norton N. Bonaparte, Jr., requesting that a public hearing be set for May 15, 2007, at 6:00 p.m. at the City Council Chambers, 214 E. Eighth Street, to hear and answer objections of taxpayers to the proposed amendments to the 2007 Operating Budget was presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Preisner moved to approve the communication. The motion seconded by Councilmember Kennedy carried unanimously. (9-0-0)

A FINAL PLAT for Misty Harbor Estates Subdivision No. 3 located approximately 225 feet north of SW 45<sup>th</sup> Street lying east and west of SW Misty Harbor Drive extended, being contiguous to the City of Topeka, within unincorporated Shawnee County, Kansas, was presented. (P07/10)

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Kennedy moved to approve the final plat. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

RESOLUTION NO. 7944 introduced by City Manager Norton N. Bonaparte, Jr., declaring the eligibility of the City of Topeka to submit an application to the Kansas Department of Transportation for use of Transportation Enhancement Funds set forth by the Federal Transportation Equity Act for the 21<sup>st</sup> Century for the Topeka-Shawnee County Trail Map Project and authorizing the City Manager to sign the application was presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

ORDINANCE NO. 18867 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of April 9, 2007, through April 15, 2007, and enumerating said expenditures therein was presented for first and final reading.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcala, Ortiz, Woefel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

RESOLUTION NO. 7945 introduced by Councilmember Brett Blackburn concerning the preparation of the City of Topeka's fiscal year 2008 operating budget was presented.

Councilmember Blackburn explained that the resolution is intended to help guide the City Manager in preparing the 2008 Operating Budget.

Councilmember Blackburn moved to approve the resolution. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 13153-00, which provides for the rehabilitation and reconstruction of Fire Station No. 5, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Street Improvement Project No. 60525-01

with pavement, curb and gutter and all other contingencies needed to complete the project as defined and described in Resolution No. 7519, adopted and approved September 7, 2004 was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., regarding a Contract Franchise Ordinance granted to Granite Telecommunications, L.L.C., a telecommunications local exchange service provider providing local exchange service within the City of Topeka, Kansas was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the Master PUD Plan of Sherwood Landing, to allow for expansion of the existing Dillon's Grocery Store located at 6829 SW 29<sup>th</sup> Street in the City of Topeka, Kansas was presented for first reading. *(Z96/32E)*

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 2111 SE 3<sup>rd</sup> Street and the triangular shaped parcel directly to the south in the City of Topeka, Kansas from "M-1" Two Family Dwelling District TO "I-1" Light Industrial District was presented for first reading. *(Z07/6)*

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 1809 SW Gage Blvd. in the City of Topeka, Kansas from "O&I-2" Office and Institutional District TO "C-3" Commercial District was presented for first reading. *(Z07/8)*

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located on the south side of SW 6<sup>th</sup> Avenue between SW Governors Lake Road and SW Security Benefit Place the centerline of which is approximately 1,200 feet west of I-70 Highway in the City of Topeka, Kansas from "R-1" Single-Family Dwelling District TO "O&I-1" Office and Institutional District was presented for first reading. (Z07/11)

PRESENTATIONS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE CITY COUNCIL, were presented.

Norton N. Bonaparte, Jr., City Manager announced that the Zoo Education Department will host the "Fun Club" on May 4, 2007 at 10:30 a.m.; the Helen Hocker Theater will host the comedy musical "Langston Hughes's Little Ham" on May 4, 2007 at 8:00 p.m.; the Zoo will offer "Meet the Zoo Keeper" on May 5, 2007 at 1:30 p.m.; and the "Youth Career Day" event will be held at the Betty Phillips Park at 33rd and Irvingham on May 5, 2007 at 9:00 a.m.

Councilmember Ortiz announced that there are five new Commerce Bank & Trust locations that are now serving as water payment drop box locations.

Councilmember Blackburn announced that the 2008 Budget Schedule would be distributed to the Council on May 2, 2007.

Councilmember Harmon requested that a pedestrian traffic study be conducted at the SE 4th and Branner Streets Intersection to address the safety concerns of area citizens.

Ami Hyten appeared to speak under public comment.

Councilmember Alcalá moved to adjourn into executive session for a time period not to exceed ten minutes to discuss a personnel matter. The motion seconded by Councilmember

Ortiz carried unanimously. 9-0-0

Following a ten-minute time period the Council reconvened into open session and Mayor Bunten announced that no action had been taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:36 p.m.

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Brenda Younger  
City Clerk